

**CITY OF SAN JOSÉ**

**POA Arbitration  
Jon Holtzman**

# Charter Section 1111 Standards

(f)“primary factors in decisions regarding compensation shall be the City's financial condition and, in addition, its ability to pay for employee compensation from on-going revenues without reducing City services. No arbitration award may be issued unless a majority of the Arbitration Board determines, based upon a fair and thorough review of the City's financial condition and a cost analysis of the parties' last offers, that the City can meet the cost of the award from on-going revenues without reducing City services.”

# Charter Section 1111 Standards

(f) “The arbitrators shall also consider and give substantial weight to the rate of increase or decrease of compensation approved by the City Council for other bargaining units.”

# Charter Section 1111 Standards

(g) Additionally, the Board of Arbitrators shall not render a decision, or issue an award, that:

1. increases the projected cost of compensation for the bargaining units at a rate that exceeds the rate of increase in revenues from the sales tax, property tax, utility tax and telephone tax averaged over the prior five fiscal years

# Charter Section 1111 Standards

(f)"Compensation" shall mean all costs to the City, whether new or ongoing, for salary paid and benefits provided to employees, including but not limited to wages, special pay, premium pay, incentive pay, pension, retiree medical coverage, employee medical and dental coverage, other insurance provided by the City, vacation, holidays, and other paid time off.

# Charter Section 1111 Standards

Other criteria are in subsection (e): “The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by the preponderance of the evidence submitted to the Arbitration Board satisfies section (f) below, is in the best interest and promotes the welfare of the public, and most nearly conforms.....

# Charter Section 1111 Standards

with those factors traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of public and private employment, including, but not limited to, changes in the average consumer price index for goods and services, the wages, hours, and other terms and conditions of employment of other employees performing similar services.”

# \$20M in Savings Subject to Litigation

Fiscal Year 2013-2014 Proposed Budget		
	General Fund Savings	All Funds Savings
Elimination of SRBR	\$13.4 M	\$17.8 M
Low Cost Healthcare Plan	\$6.5 M	\$12.5 M
TOTAL	\$19.9 M	\$30.3 M

- \$11.1 M Employee Compensation General Fund Planning Reserve included in proposed budget



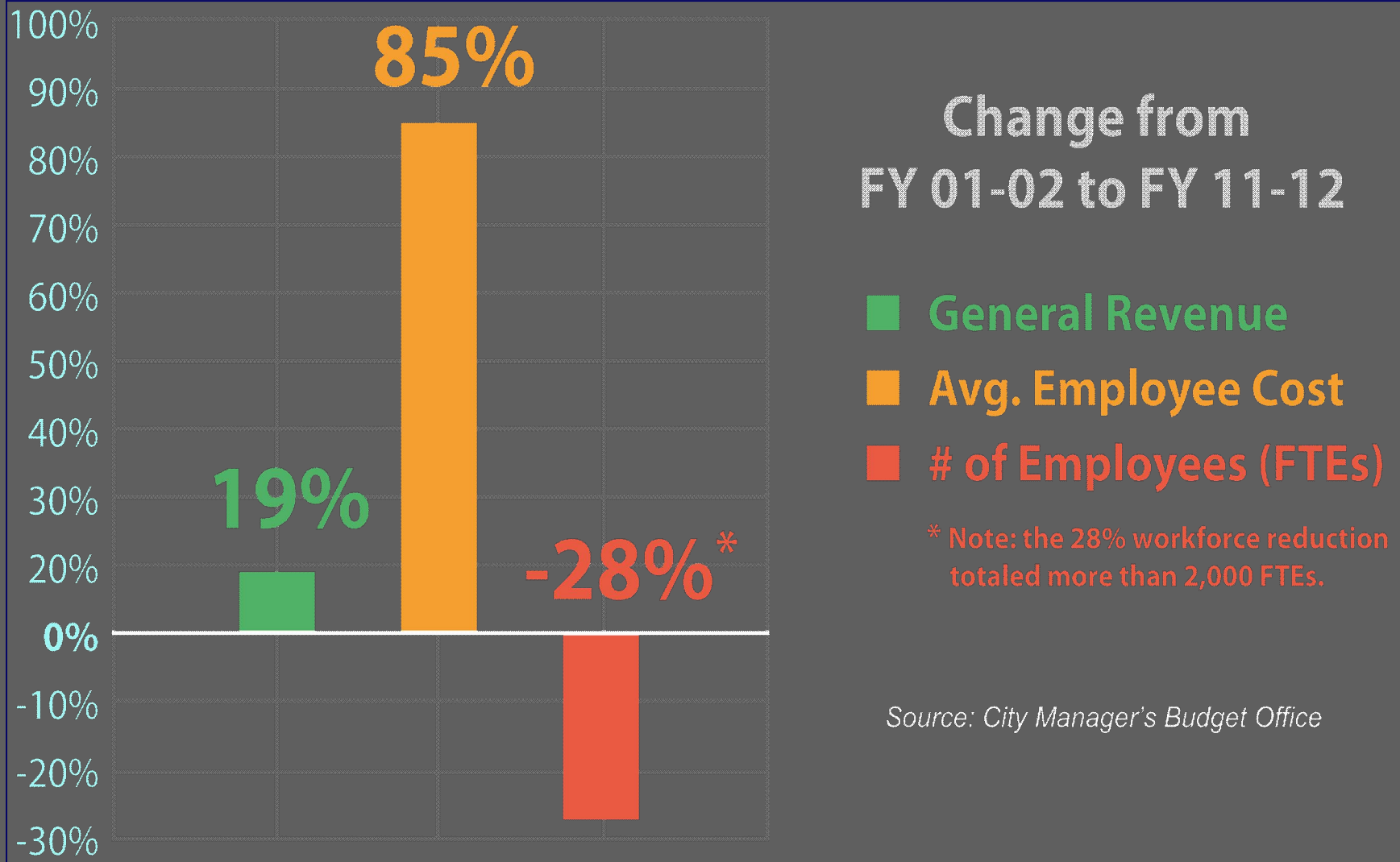
# City's Budget Situation

# \$670 Million in Cumulative General Fund Shortfalls Balanced through 2012-2013

	Total General Fund Shortfall	City-Wide Position Changes (All Funds)	City-Wide Positions (All Funds)
2002-2003	(\$ 46.3 M)	(36)	7,445
2003-2004	(\$ 92.1M)*	(205)	7,240
2004-2005	(\$ 81.7M)*	(426)	6,814
2005-2006	(\$ 58.0 M)	(115)	6,699
2006-2007	(\$ 34.9 M)	171	6,870
2007-2008	(\$ 19.9 M)	149	7,019
2008-2009	(\$ 29.6 M)	(7)	7,012
2009-2010	(\$ 84.2 M)	(362)	6,650
2010-2011	(\$118.5 M)	(783)	5,867
2011-2012	(\$115.2 M)	(440)	5,427
2012-2013	\$ 10.4 M	95	5,522
<b>SUBTOTAL</b>	<b>(\$670.0 M)</b>	<b>(1,959)</b>	
2013-2014	(\$ 3.8 M)	129	5,651
<b>TOTAL</b>	<b>(\$ 673.8 M)</b>	<b>(1,830)</b>	

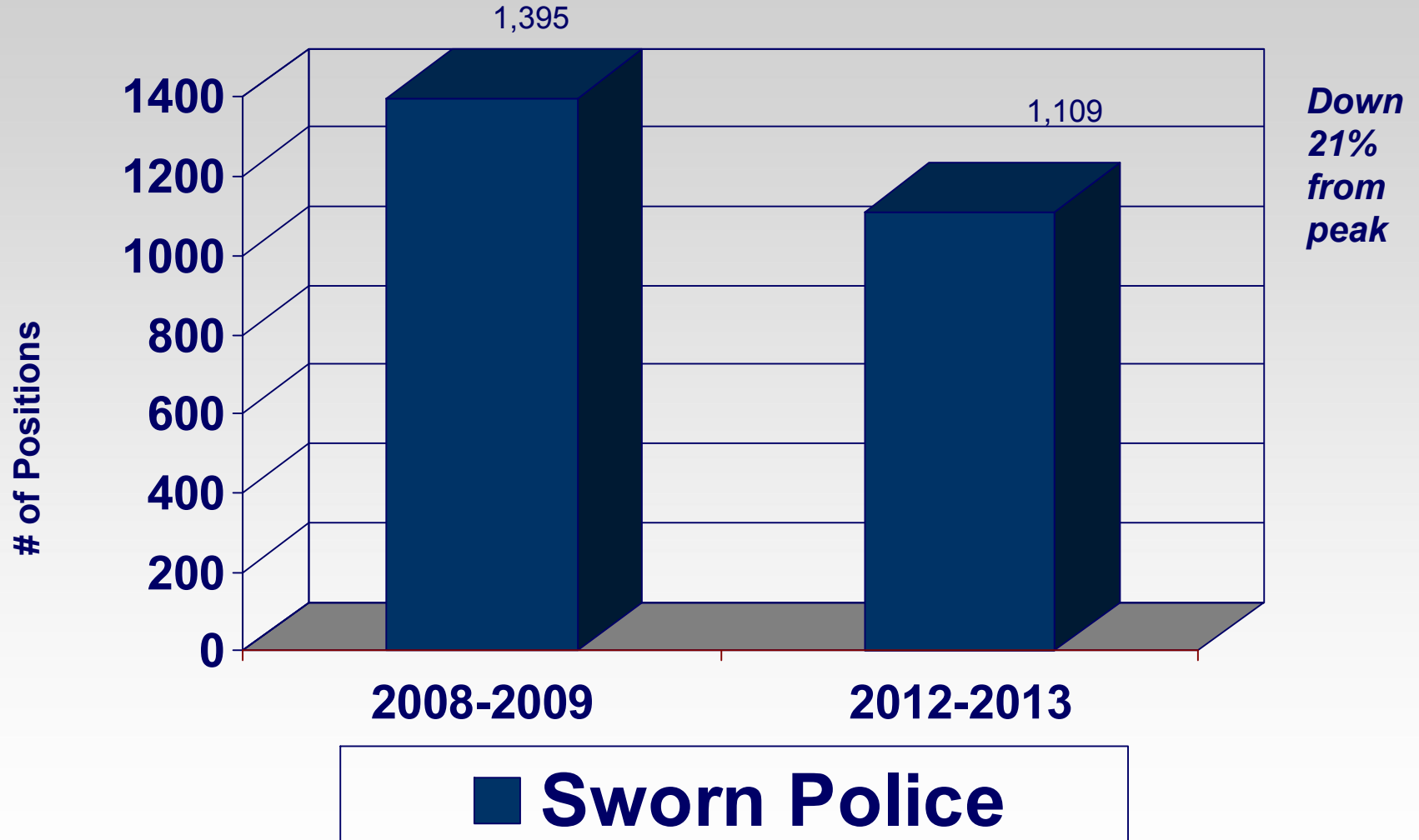
\* Includes State impact of \$10.8 million in 2003-04 and \$11.4 million in 2004-05

# 10 Years of Budget Deficits – How Did We Get Here?

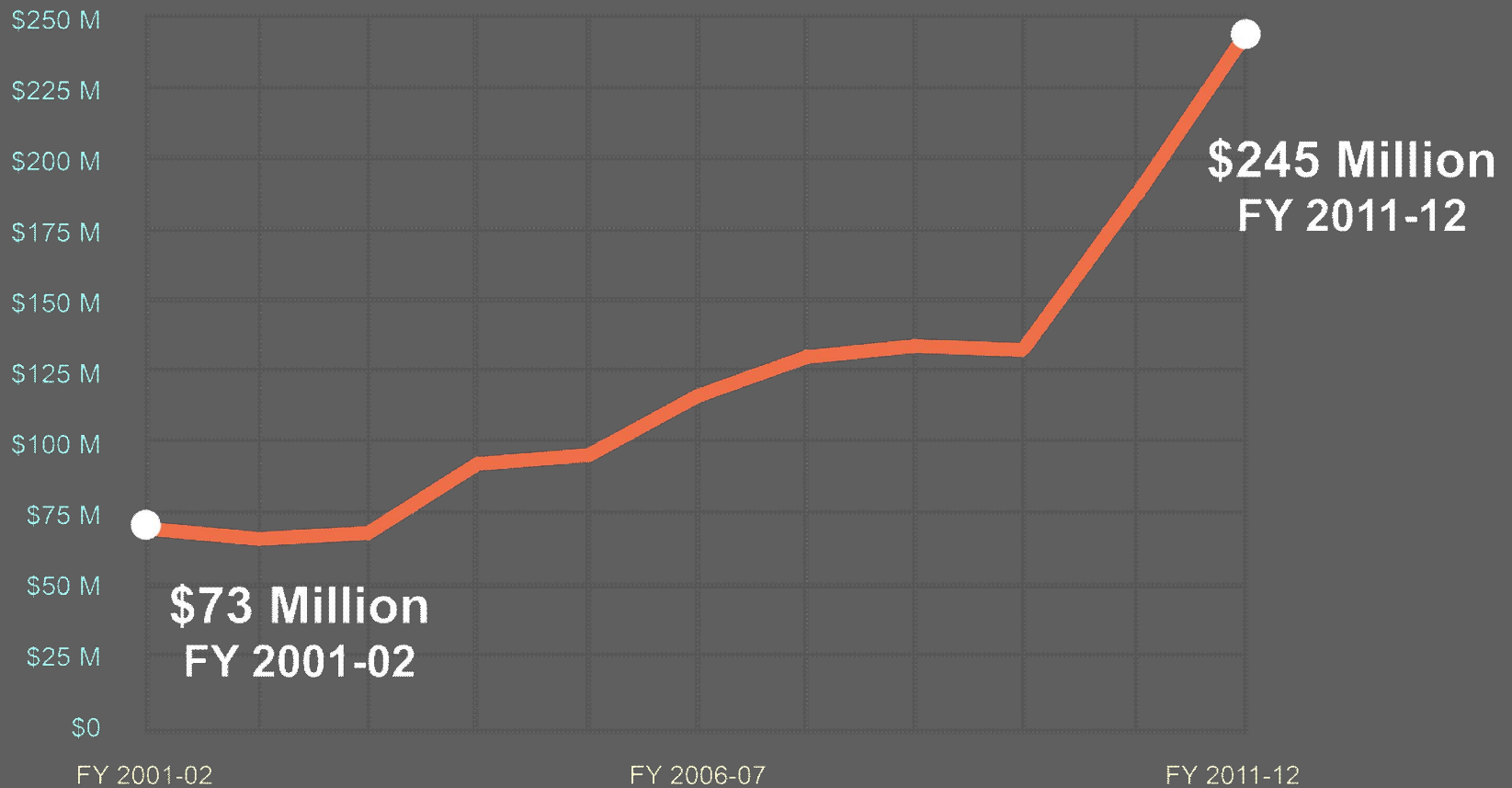


# Budget Balancing:

## Sworn Police Positions



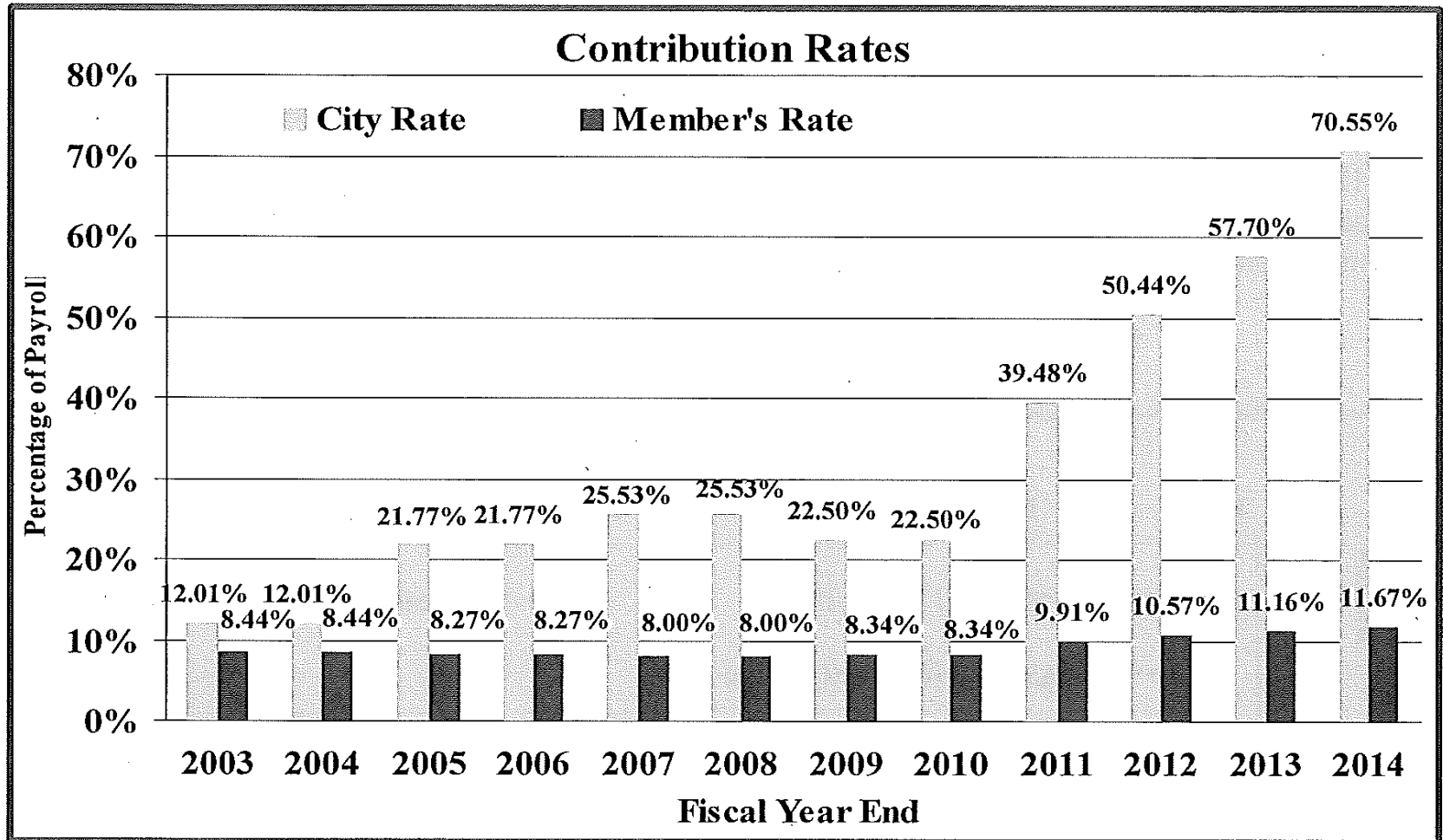
# Retirement Cost Increases



Sources: Retirement System Comprehensive Annual Financial Reports (01-02 through 10-11); City Manager's Fiscal Reform Plan (May 2011); OMB ABS Report - Salary and Fringe Benefit Costs by Union Code & Fund for the 2011-2012 Adopted Budget (Sep. 2011)

# Cheiron- June 30, 2012 Valuation

## Employer and Member Contribution Rates for FYE 2003 - 2014



# **Maximum an Arbitration Board Can Award Under City Charter**

# Measure V- Charter Section 1111

*Additionally, the Board of Arbitrators shall not render a decision, or issue an award, that:*

- 1. increases the projected cost of compensation for the bargaining units at a rate that exceeds the rate of increase in revenues from sales tax, property tax, utility tax and telephone tax averaged over the prior five fiscal years; or [.]*



# Charter of the City of San José

## Section 1111 (g1) – Rate of Increase in Revenues

### 5-Year Average Change in Revenue (Excludes Telephone Tax\*)

	2006-2007 Actuals	2007-2008 Actuals	2008-2009 Actuals	2009-2010 Actuals	2010-2011 Actuals	2011-2012 Actuals	
Property Tax <sup>1</sup>	191,825,613	208,878,360	215,704,073	206,062,364	197,176,723	201,711,784	
Sales Tax	149,962,080	154,001,942	132,005,205	127,237,777	137,969,758	154,026,546	
Telephone Tax*			7,869,559	20,500,000	20,643,328	20,529,291	
Utility Tax <sup>2</sup>	79,129,153	82,254,430	85,749,565	87,650,883	87,884,597	90,382,878	
TOTAL	420,916,846	445,134,732	441,328,402	441,451,024	443,674,406	466,650,499	
TOTAL w/o Telephone Tax*	420,916,846	445,134,732	433,458,843	420,951,024	423,031,078	446,121,208	
% Change from Prior Year (w/o Telephone Tax)		5.75%	-2.62%	-2.89%	0.49%	5.46%	
		Average (5-Year) % Change (w/o Telephone Tax)*					1.24%
* Excludes Telephone Tax due to the lack of five-year data; data available for 2010-2011 (0.7% growth) and 2011-2012 (0.6% decline)							
<sup>1</sup> In 2011-2012, Aircraft Property Tax was reclassified from Revenue from the State to Property Tax. The prior years have been restated to reflect this change.							
<sup>2</sup> Includes one-time legal settlement of \$1.56 million in 2011-2012.							

# Retirement Contribution Rates from Board's Actuary

<b>Police City Contribution Rates</b>	<b>Valuation as of 06/30/11<sup>[1]</sup></b>	<b>Valuation as of 06/30/12<sup>[2]</sup></b>
<b>City Pension Contribution Rate</b>	56.57%	65.31%
<b>City Retiree Healthcare Contribution Rate</b>	8.96%	10.31%
<b>Total Contribution Rate</b>	<b>65.53%</b>	<b>75.62%</b>
<b>Net Change in Contribution Rate</b>	<b>10.09%</b>	

<sup>[1]</sup> Cheiron's pension actuarial valuation as of June 30, 2011 (Report dated March 2012)

<sup>[2]</sup> Cheiron's memo regarding FYE 2014 contribution rates assuming the SRBR is eliminated (Report dated December 21, 2012)

# Measure V- Definition of Total Compensation

*“Compensation” shall mean all costs to the City, whether new or ongoing, for salary paid and benefits provided to employees, including but not limited to wages, special pay, premium pay, incentive pay, pension, retiree medical coverage, employee medical and dental coverage, other insurance provided by the City, vacation, holidays, and other paid time off.*

# 2013-2014 Retirement Plan Contribution Rate Increases

## Police Retirement Plan

<b>Pension and Retiree Healthcare Budgetary Rate</b>	<b>2012-2013</b>	<b>2013-2014</b>	<b>2014-2015</b>
Total	65.7%	73.0%	78.3%
Percent Point Chg		+7.3%	+5.3%

<b>Example Impact on Total Compensation</b>	<b>Salary</b>	<b>Retirement</b>	<b>Other Fringe</b>	<b>Total</b>	<b>Total Comp % Chg</b>
2012-2013 Sample Top Step Police Officer Position*	\$97,200	\$63,860	\$17,500	\$178,560	
2013-2014 Sample Top Step Police Officer Position*	\$97,200	\$70,955	\$17,500	\$185,655	+4.0%

\* Excludes Special Pays

# (g)(1) Calculation

- Available amount to be awarded under cap:
  - 1.24%
- Amount already absorbed by pension and retiree health care
  - 4%
- Amount available to be awarded
  - $4 - 1.24 = -2.76$

# City's Last Wage Offer to POA

Item	Cost	% of Pay	Ongoing/One-Time
Addition of 2.5% step <u>or</u> 2% General Wage Increase (without contingencies)	\$4.4M or \$4.3 M	2%	Ongoing
80 hours leave balance buydown	\$3.4 M	2.9%	One-time
50% of premium for Long Term Disability	\$400,000	.33%	Ongoing
Increase Uniform Allowance to \$900	\$250,000	.21%	Ongoing
<b>TOTAL</b>	<b>\$8.45 M</b>	<b>5.44%</b>	<b>2.54% ongoing</b>

# Union Argument

# March 15<sup>th</sup>- POA Letter to City

We have discussed at the bargaining table, and outside of it, the City's interpretation of Measure V, as it revised City of San Jose Charter Section 1111(g). As I understand the City's position, in an arbitration pursuant to Section 1111, the arbitrator would be prohibited from raising employee compensation any more than the rate of increase of certain City fiscal revenues -- predominantly tax return increases -- averaged over five years. While the POA is not conceding that that is the correct interpretation, or that Measure V is legal, we do ask that the City advise us as soon as possible about its calculation of what that maximum rate of increase would be for fiscal years 2013-14, 2014-15 and 2015-16. Please also provide us with any methodology and supporting documentation.



# Timeline

- **March 20<sup>th</sup>**- City provides calculation to the POA at the bargaining table
- **March 28<sup>th</sup>**- POA letter to Judge Flaherty declaring “impasse” over issue of 10%

In anticipation of tomorrow's call with Judge Flaherty regarding the interest arbitration currently set for May 6-8, 2013, it seems appropriate that we should tee-up for the Judge's determination the issue of whether the 10% salary range reduction agreed to in the June 3, 2011 Tentative Agreement is "ongoing or one-time" by declaring that the parties have in fact reached an impasse over that issue.

# December 7, 2011 Agreement

## Tentative Agreement on Wages and Term December 7, 2011

The following represents the Parties' agreement to settle the terms of the interest arbitration provided for in Section 5.1 of the June 3, 2011, Tentative Agreement between the parties.

1. **Wages.** Effective June 26, 2011, all salary ranges for employees represented by the POA were decreased by approximately 10%. This resulted in the top and bottom of the range of all classifications represented by the POA being 10% lower. The parties agree that the 10% wage reduction shall remain the "status quo" unless and until it is modified through mutual agreement or through the decision of an arbitrator pursuant to Section 1111 of the San Jose City Charter.

# Council Approval of Agreement- January 10, 2012

## Wages

Effective June 26, 2011, all salary ranges for employees represented by the POA were decreased by approximately 10%. The 10% wage reduction shall remain the “status quo” unless and until it is modified through mutual agreement or through the decision of an arbitrator pursuant to Section 1111 of the San Jose City Charter.

# Fiscal Year 2010-2011 Concessions

Progress in Achieving 10% Total Compensation Reduction			
Employee Unit	Fiscal Year 2010-2011 Total Compensation Changes		
	Ongoing	One-Time	Total
Unit 99/Unit 82	-5%	-5%	-10%
AEA	-5%	-5%	-10%
ALP	-5%	-5%	-10%
AMSP	-5%	-5%	-10%
CAMP	-5%	-5%	-10%
IBEW	-5%	-5%	-10%
OE#3	-5%	-5%	-10%
ABMEI	-5%	0%	-5%
POA	-0.67%	-3.15%	-3.82%
IAFF, Local 230	0%	0%	0%
MEF	+2%	0%	+2%
CEO	+2%	0%	+2%

# Fiscal Year 2011-2012 Concessions

Employee Unit	Fiscal Year 2011-2012 Total Compensation Changes
Unit 99/Unit 82	-10%
AEA	-10%
ALP	-10%
AMSP	-10%
CAMP	-10%
IBEW	-10%
OE#3	-10%
ABMEI	-10%
POA	-10%
IAFF, Local 230	-10%
MEF	-10%*
CEO	-10%*

\* Also had a rollback of a 2% general wage increase received

# Communication Regarding Agreement

**From:** Charles Sakai [<mailto:csakai@publiclawgroup.com>]

**Sent:** Monday, December 05, 2011 5:22 PM

**To:** John Tennant @ SJPOA; Gregg Adam

**Cc:** Eugene Park

**Subject:** Proposal for closed session tomorrow

John & Gregg –

Her is my understanding of the proposal:

- 2 year agreement (expires June 30, 2013).
- 10% wage reduction today.
- 10% would be status quo in bargaining and in arbitration
- Arbitration or agreement
  - On all issues (not just wages)
  - must be completed and decision issued by June 30, 2013
- If Council places interest arbitration on the ballot, the parties go to interest arbitration immediately

Let me know if you have any issues with this. I will send this to the City by 630 unless I hear differently from you.

Charles



# John Tennant's Response

**From:** John Tennant <jtennant@sfpoa.org>  
**Sent:** Monday, December 05, 2011 6:24 PM  
**To:** Charles Sakai; John Tennant @ SJPOA; Gregg Adam  
**Cc:** Eugene Park  
**Subject:** RE: Proposal for closed session tomorrow

Charles,

As I mentioned, this looks good. One caveat: if a citizen puts removal of interest arbitration on the ballot, we need to have the ability to arbitrate before arbitration is eliminated.

**John R. Tennant**  
General Counsel  
San Francisco Police Officers' Association  
800 Bryant Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94103  
Office: (415) 861-5060  
Fax: (415) 552-5741

# Fiscal Year 12/13 Adopted vs. Fiscal Year 13/14 Proposed

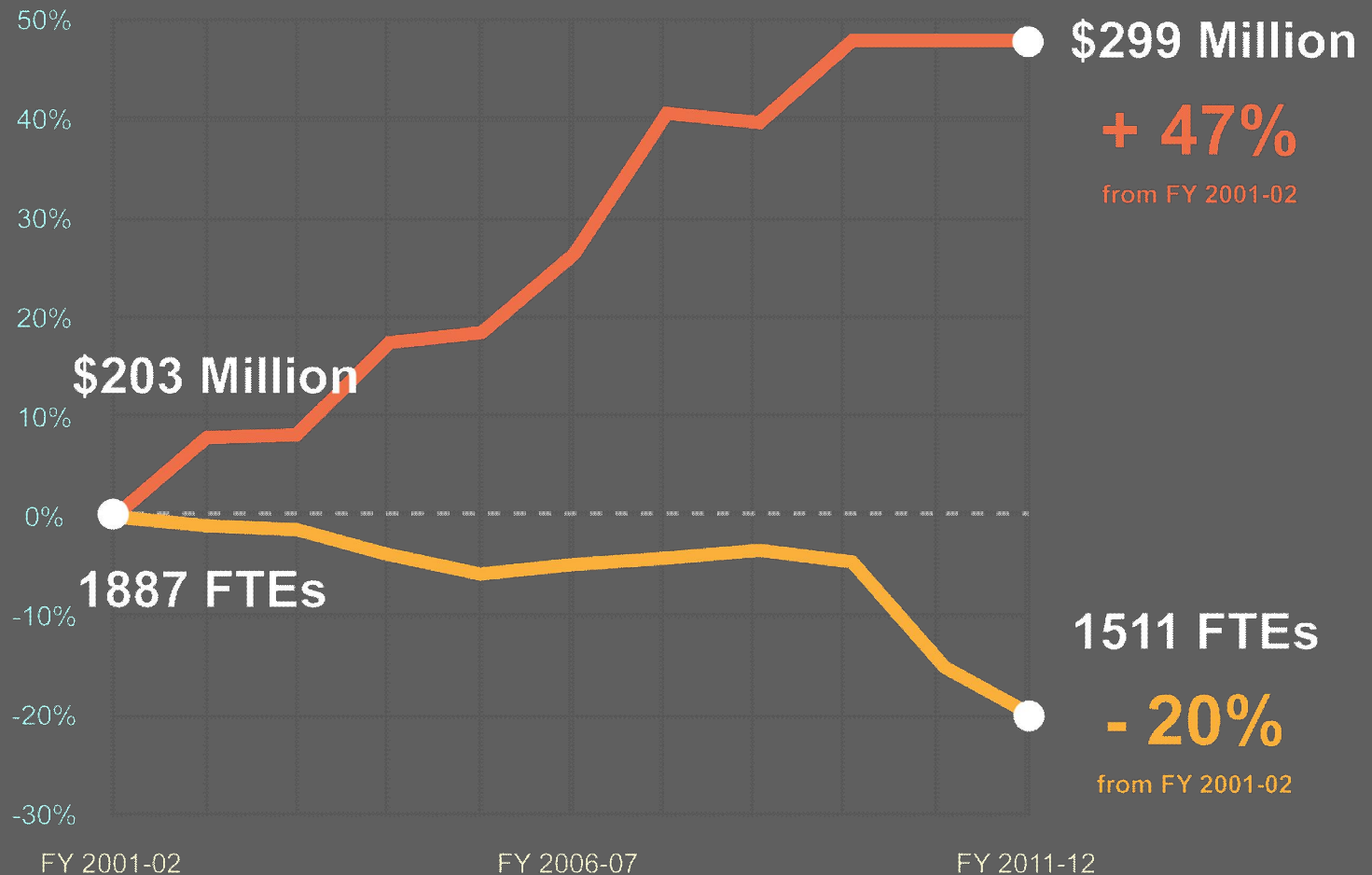
	Fiscal Year 2012-2013	Fiscal Year 2013-2014	Difference
Police and Fire Department General Fund Budget	\$446,077,006	\$469,774,050	\$23,697,044
General Fund Revenues	\$790,342,661	\$811,753,811	\$21,411,150



# Police Department: FY 2001-02 to FY 2011-12

**SJPD  
Budget**

**SJPD  
Staffing**



Source: City of San Jose Adopted Operating Budgets, FY 2001-02 through FY 2011-12

# Retention

# Average Total Compensation- All Sworn Police Employees

Averages				
Salary	Retirement	Health	Fringe	Total Compensation
\$105,680	\$76,280	\$11,643	\$2,846	\$196,449

*Source: FY 2013-2014 Base Budget Numbers for all sworn employees represented by the POA*





# Paycheck To Paycheck

By *Jim Unland* – page 06

## Polling Reveals Officer Resignation Problem Growing

**Mercury News Article- February 17, 2013**

# ***“San Jose police union helps Austin recruit city officers***

***The San Jose Police Officers' Association hosted the Austin Police Department last Tuesday to promote Austin's effort to recruit the city's cops. Austin was seeking city officers chafing at pay and benefit cuts brought on by the soaring cost of their city retirement pensions. It's not the first time the SJPOA has hosted outside recruiters in recent months.”***

# Protect San Jose- SJPOA Website



# JOIN SJPD

**Because the part still above water  
Is so very pretty**

# Police Academy Graduates



**Source:** San Jose Mercury News



*"SJPD has not lost its luster," said acting Assistant Chief Edgardo Garcia moments before the ceremony. "We've had rough times, and work to do. But people still want to wear this badge and uniform."*